

Waivers	First Name	Last Name	Claim Number
			W-16-0005
Amount	OGC Received Date	Assigned To	Assigned Date
\$243.38	03/24/2016	Stephanie Rich	03/30/2016
EPA Decision	EPA Decision Date	Amount Approved	Status
DENIED	05/17/2016	CLOSED	
Appeal	Comments		
No			
Type			
Negative Balance of Sick Leave			

#### Attachments

From: Redden, Kenneth  
Sent: Tuesday, May 17, 2016 9:40 PM  
To: [REDACTED]  
Cc: [REDACTED] Stewart, Leonice  
<Stewart.Leonice@epa.gov>  
Subject: Waiver Decision (W-16-0005)

[REDACTED],  
This email is in response to your "Waiver/Remission of Indebtedness Application" dated October 1, 2015, wherein you requested approval of a waiver in the amount of \$242.38. For the reasons set forth below, your request for waiver is denied.

#### Background

Briefly stated, on July, 31, 2015 you received a Bill for Collection from the Agency EPA's Bureau for Remittance Payable stating you had received overpayment in the amount of \$242.38 due to a negative 4 hours of sick leave. The Record of Leave Data from the Department of Interior's Bureau of Reclamation, who provides payroll services to the Agency, shows you had 72 hours of sick leave accrued during 2014, plus 2 hours carried over from the previous year, totaling 74 hours of earned sick leave. The record then indicates you took 78 hours of sick leave for 2014. This left you with a negative 4 hours of sick leave when you resigned on September 30, 2014. In your request, you state that you became aware of the debt upon receipt of the Bill for Collection on July 31, 2015. You explain in your application that you believe a waiver should be granted because you and your supervisor had a discussion in which your supervisor specifically told you that you would not be charged for 4 hours of sick leave because you had worked many hours of overtime without pay.

#### Analysis

Under 5 U.S.C. § 5584, I have the authority to waive collection of

erroneous payments or allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee. Generally, waiver is precluded if an employee receives a significant unexplained increase in pay or allowances or otherwise knows, or reasonably should know, that an erroneous payment has occurred.

The Comptroller General has consistently held that an employee has the responsibility to verify the correctness of his or her Leave and Earnings statements. B-212478, Dec. 19, 1983. If an employee “fails to review documents for accuracy or otherwise fails to take corrective action, he is not without fault and the waiver will be denied.” B-202795, December 1, 1981.

Here, as the Acting EPA Claims Officer, I find granting a waiver for the overpayment of \$242.38 would be “against equity and good conscience” because 1) you did not take the affirmative steps necessary to receive compensatory credit for the 4 hours of sick leave and 2) you knew or should have known that you had a negative balance of 4 hours of sick leave for which you had been erroneously paid.

You state in your request that you and your supervisor, [REDACTED], specifically discussed that you would not be charged for the negative 4 hours of sick leave because you had worked many hours overtime. However, the record shows that neither you nor [REDACTED] took the affirmative steps necessary to realize this alleged arrangement.

An employee must follow the proper procedures to accrue compensatory credit. An employee may earn compensatory credit if the employee’s supervisor either orders or approves overtime in advance of the administrative workweek. 5 U.S.C. § 5542. Once ordered or approved in advance by an employee’s supervisor, the employee must then enter the number of approved overtime hours into her time card and the supervisor must subsequently approve the time card. To use compensatory credit hours towards an absence, the employee must elect the use of compensatory hours in the employee’s absence request.

Here, the record shows neither an order nor approval in advance for compensatory time nor compensatory hours reflected in your time card that could be used to cover the negative 4 hours of sick leave in question.

Additionally, your Leave and Earnings statement from your last full bi-weekly Pay Period, 2014-20, indicates that you had an “advanced balance decrement” of 4 hours of sick leave. Therefore, you were on notice that you had a negative balance of 4 hours at the time of your resignation and you either knew or should have known that you had been overpaid for the 4 hours of unearned sick leave. Your Leave and Earnings statement from PP 2014-18 shows that you had a balance of 10 hours of sick leave. During PP 2014-19 you entered 14 hours of sick leave on your time card. You did not accrue any sick leave during PP 2014-20 because you did not complete a

full bi-weekly pay period, resulting in a negative 4 hours of sick leave. As stated above, it is the responsibility of the employee to verify that the time entered into her time card is accurate. Because you should have recognized an error in your sick leave balance for PP 2014-19 and 20, it was your responsibility to notify your supervisor or payroll officials. Based on the level of responsibility to which employees are held in reviewing their leave records, I conclude that you were at fault for the negative hours of sick leave at the time of your resignation. You did not take the affirmative steps necessary to receive compensatory credit for the 4 hours of sick leave in question and you had notice of this negative balance as reflected in your Leave and Earnings statements for the relevant pay periods. Accordingly, your request for a waiver in the amount of \$242.38 is denied.